

BEFORE THE STATE ELECTRICAL BOARD  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PUBLIC HEARING  
amendment of ARM 24.141.405 ) ON PROPOSED AMENDMENT  
pertaining to the fee schedule, ) AND ADOPTION  
and ARM 24.141.2102 pertaining to )  
continuing education, and the )  
proposed adoption of NEW RULE I )  
pertaining to licensee )  
responsibilities, and NEW RULE II )  
pertaining to fee abatement )

TO: All Concerned Persons

1. On February 3, 2006, at 1:00 p.m., a public hearing will be held in room B-07 of the Park Avenue Building, 301 South Park Avenue, Helena, Montana to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or who need an alternative accessible format of this notice. If you require an accommodation, contact Mr. George Edwards no later than 5:00 p.m., January 27, 2006, to advise us of the nature of the accommodation you need. Please contact Mr. George Edwards, State Electrical Board, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2329; Montana Relay 1-800-253-4091; TDD (406) 444-2978; Facsimile (406) 841-2309; e-mail dlibsdele@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.141.405 FEE SCHEDULE (1) through (3) remain the same.

(4) Renewal fee (~~three~~ two years)

(a) Contractor ~~250~~ 165

(b) Master ~~400~~ 70

(c) Journeyman ~~400~~ 70

(d) Residential ~~400~~ 70

(5) through (9) remain the same.

AUTH: 37-1-134, 37-68-201, MCA

IMP: 37-1-134, 37-1-304, 37-1-305, 37-68-304, 37-68-307, 37-68-310, 37-68-311, 37-68-312, 37-68-313, MCA

REASON: It is reasonable and necessary to amend this rule to implement changed statutory language from the 2005 legislative session, as provided by Chap.

467, Laws of 2005 (HB 182). Current renewal fees are based on a statutory three-year license renewal cycle. The new license renewal cycle will be a two-year period, in line with the state budgeting and appropriations cycle. Basing fees on a two-year period means that fees must be adjusted to prevent an excess amount of revenue. A failure to adjust renewal fees based on the new two-year renewal cycle would cause an excess of revenue collection.

Renewal fee adjustments reflected in this rule amendment will increase fees to individual electrician licensees by \$3.34 per each two-year renewal cycle. The \$3.34 increase will be used for an increase in Board expenses such as Department staff salaries and office supplies. Based on the current numbers of licensed electricians and electrical contractors, approximately 3,200 licensed electricians will be impacted by the \$3.34 fee increase per each two-year renewal cycle. This would amount to a \$10,688 revenue increase every two years. Approximately 830 licensed electrical contractors will have their fees reduced by \$1.68 per each two-year renewal cycle. This would amount to a \$1,394.00 decrease in revenue projections; this will keep revenues within the Board's appropriation levels. The fee adjustments lower the three year rate by approximately one-third, but are rounded to make the fees an even-dollar amount. The Board therefore estimates that approximately 4,030 persons will be affected by the proposed changes, for an estimated total fee increase of approximately \$9,294 per year.

24.141.2102 CONTINUING EDUCATION (1) Each master, journeyman, and residential electrician license shall not be renewed unless the continuing education requirements imposed by this rule have been met, prior to a ~~July 15th~~ the renewal date set by administrative rule. Any licensee who fails to fulfill the continuing education requirements, imposed by this rule, ~~by the August 15th following a July 15th~~ within 45 days of the renewal date, shall cause the license to lapse. It is unlawful for a person whose license has lapsed to perform electrical work in this state. For reinstatement after ~~August 15th and before July 15th of the next year~~ the license has lapsed, the applicant shall have completed the continuing education requirements, certified that fact to the board, and met all other renewal requirements.

(2) To receive credit for continuing education, the following requirements must be met:

(a) Courses or seminars must have prior approval of curriculum by the state electrical board or designated board representative. Each course shall be assigned a course approval number by the board to be listed on the certificate of completion. Board approval of said courses and seminars expires August 1 of each license renewal year.

(b) and (c) remain the same.

(d) Maintaining a record of completion ~~Completion~~ certificates for courses or seminars and the hours attended shall be the responsibility of the licensee. An audit of completion certificates may be requested by the board or designated board representative at any time, attached to the application for license renewal to a maximum verification of 24 hours in the three-year period prior to each license renewal date. A minimum of eight hours each licensed year must be obtained per

renewal cycle. All of the requisite hours may be obtained during any portion of the renewal cycle. A minimum of 12 four of the 24 eight hours shall be verified as being on the national electrical code updates.

(e) through (j) remain the same.

(3) Continuing education courses approved by another state which has a reciprocal licensing agreement with the board will be honored toward renewal. The reciprocal state's course approval number and date of course must appear on the completion certificate.

(4) Completion certificates must be submitted within 30 days upon request by the board office for the purpose of licensing renewal audits. Failure to supply continuing education completion certificates when requested by the board office shall be cause for disciplinary actions.

AUTH: 37-1-131, 37-1-319, 37-68-201, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, 37-68-201, MCA

REASON: It is reasonable and necessary to amend this rule to implement new statutory language from the 2005 legislative session, to clarify what constitutes approved courses given by another jurisdiction, and to establish disciplinary actions for failure to comply with this rule. Changes include the duration of license renewals from three years to two years. Existing language in the rule specified an hour requirement based upon a three-year renewal cycle. The amendment provides for flexibility by specifying the hour requirement based on the length of time a licensee holds the license rather than tying the requirement to the time of a renewal cycle. Legislative changes provide an audit of not more than 50% of licensees for continuing education compliance. To meet the statutory change, the rule is being amended from requiring all course certificates (a 100% audit of licensees) being sent in with a renewal. This also allows for licensees to participate in an on-line renewal process.

Approval of continuing courses has, historically, required Board action. To facilitate a shortened time period for course approval, under the proposed changes, the Board would be able to appoint a representative to approve continuing education courses. The Board participates in a multi-state reciprocal licensing agreement. Amendments to this rule specify conditions that need to be met in order for the Board to honor courses given by another jurisdiction.

There also is reasonable necessity to amend the IMP citation to reflect the implementation of new provisions of section 37-1-131, MCA, concerning continuing education requirements, as well as clarifying that the rule also implements section 37-1-319, MCA.

4. The rules proposed to be adopted provide as follows:

NEW RULE I UNPROFESSIONAL CONDUCT (1) In addition to the activities set forth in 37-1-316, MCA, the following activities are also deemed by the board to be unprofessional conduct:

(a) uncorrected violations of the Montana State Electrical Code as adopted by the Department of Labor and Industry's Building Codes Bureau;

(b) failing to comply with all provisions of state law relating to workers' compensation insurance, unemployment insurance, and independent contracting; and

(c) failure to comply with continuing education requirements set forth in ARM 24.141.2102.

(2) Upon findings of unprofessional conduct as defined in (1) and determined in accordance with the Montana Administrative Procedure Act, the board may impose sanctions, including but not limited to those allowed by and listed in 37-1-312, MCA.

AUTH: 37-1-131, 37-1-136, 37-1-319, 37-68-201, MCA

IMP: 37-1-307, 37-1-316, 50-60-601, 50-60-603, 50-60-604, MCA

REASON: It is reasonable and necessary to adopt rules to clarify for electrical contractors, journeymen electricians, master electricians, electrical apprentices, licensing applicants, and electrical industry consumers that the board intends to fully utilize the quasi-judicial authority it is granted in and by Title 37, Chapter 1, Part 1, MCA. It is reasonable to adopt (1)(a) because the Board has become increasingly aware that many licensed electricians are routinely failing to comply with Montana's electrical code. These violations commonly involve failing to obtain permits for electrical work prior to performing that work, if at all; failing to correct defective installations; or failure to properly call for inspections. The Board believes that adopting this provision will provide it a specific pathway to discipline electricians for these types of infractions which, in turn, will provide all licensees a greater incentive to ensure their work is done in full compliance with electrical code requirements. The Board believes this action is necessary to ensure and enhance public safety as it relates to the electrical industry.

It is reasonable and necessary to adopt (1)(b) to ensure that licensees who are employers or bona fide independent contractors conduct their activities in full compliance with the referenced laws. The Board believes adoption of this provision will benefit the public because it will assist in assuring that a vibrant workforce of skilled and licensed electricians is continuously available to serve Montana citizens.

It is reasonable and necessary to adopt (1)(c) to clarify and emphasize that all licensed electricians must comply with applicable continuing education requirements, and for the Board to be able to take effective disciplinary measures against licensees who do not timely meet their continuing education obligations. The Board believes adoption of this provision is necessary as an incentive for electrical licensees to remain current with the rapidly changing technologies in the electrical industry, especially those changes which are accommodated by changes in the state and national electrical code.

It is reasonable and necessary to adopt (2) to clarify and emphasize for electrical contractors, journeymen electricians, master electricians, electrical apprentices,

licensing applicants, and electrical industry consumers that the board intends to fully utilize the quasi-judicial authority it is granted in and by Title 37, Chapter 12, Part 1, MCA.

NEW RULE II FEE ABATEMENT (1) The State Electrical Board adopts and incorporates by reference the fee abatement rule of the Department of Labor and Industry found at ARM 24.101.301.

AUTH: 37-1-131, MCA

IMP: 17-2-302, 17-2-303, 37-1-134, MCA

REASON: The Board has determined there is reasonable necessity to adopt and incorporate by reference ARM 24.101.301 to allow the Board to authorize the Department to perform renewal licensure fee abatements as appropriate and when needed, without further vote or action by the Board. The Department recently adopted ARM 24.101.301 to implement a means for the prompt elimination of excess cash accumulation in the licensing programs operated by the Department.

Adoption and incorporation of ARM 24.101.301 will allow the Department to promptly eliminate excess cash balances of the Board that result from unexpectedly high licensing levels or other non-typical events. Abatement in such instances will allow the licensees who have paid fees into the Board's program to receive the temporary relief provided by abatement. Adoption of this abatement rule does not relieve the Board from its duty to use proper rulemaking procedures to adjust the Board's fee structure in the event of recurrent instances of cash balances in excess of the statutory allowed amount.

5. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted by mail to Mr. George Edwards, State Electrical Board, Department of Labor and Industry, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2309, or by e-mail to [dlibsdele@mt.gov](mailto:dlibsdele@mt.gov) and must be received no later than 5:00 p.m., February 13, 2006.

6. An electronic copy of this Notice of Public Hearing is available through the Department and Board's website on the World Wide Web at <http://www.electrician.mt.gov>, in the Rules Notices section. The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The State Electrical Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all State Electrical Board administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the State Electrical Board, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2309, e-mailed to [dlibsdele@mt.gov](mailto:dlibsdele@mt.gov) or may be made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

9. Lon Mitchell, attorney, has been designated to preside over and conduct this hearing.

STATE ELECTRICAL BOARD  
TONY MARTEL, PRESIDENT

/s/ MARK CADWALLADER  
Mark Cadwallader  
Alternative Rule Reviewer

/s/ KEITH KELLY  
Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 3, 2006